

Nondiscrimination and Anti-Harassment Policy

MICA is committed to creating and maintaining a safe creative educational, working and living environment that is free from discrimination and harassment. Our policy prohibits discrimination and/or harassment based on race, creed, color, sex, gender identity or expression, age, national origin, religion, disability, veteran status, marital or domestic partnership status, sexual orientation, genetic information, and/or other legally protected characteristics.

The College will act promptly to address complaints raised by any member of the community who may have been subjected to discriminatory and/or harassing behavior. It will do so by reviewing the matter and conducting an investigation, if and when the Vice President for People, Belonging and Culture (VPPB&C), or their designee, deems it necessary. The VPPB&C may in their discretion appoint an internal or external investigator to review a complaint. Any investigator engaged or designated by the College will work in partnership with the VPPB&C or their designee. In either case, the College will take appropriate action to stop the discrimination and/or harassment. The specific action taken by the College will depend on the facts and circumstances of the case.

The College also prohibits any form of retaliatory action against any member of the MICA community who in good faith files a complaint under this policy or participates in the review or investigation of the same.

Violation of any provision of this policy may result in disciplinary action up to and including termination.

MICA may revise any provision of this policy and its procedures as it sees fit over time. If the College makes revisions, we will provide adequate notice to the members of the community. Unless otherwise noted, complainants may assume that the policy and procedures in place at the time of their official filing will apply.

Scope

This policy applies to all members of the MICA community, including all faculty, staff and students. Complaints of sexual misconduct and harassment on the basis of sex or gender will be investigated and managed under MICA's Sexual Misconduct Policy. All others will be managed under this Policy, including allegations of sex and/or gender based disparate treatment discrimination.

The VPPB&C will consult with the Provost when administering the policy in cases involving members of the faculty. In those cases, the Provost will accept the findings and conclusions of the investigator and make the decision with respect to the ultimate resolution of the case and to determine the impact, if any, of other policies and agreements that may apply uniquely to members of the faculty.

In cases involving students, the VPPB&C will consult with the Vice President for Student Affairs and may decide to transfer the complaint to that office for resolution under its policies and procedures. If appropriate, the VPPB&C will oversee the fact-finding stage and report the findings and conclusions to the Vice President for Student Affairs to resolve in accordance with their policies, procedures and past practices.

In all cases, the ultimate resolution must be reached in a manner that is consistent with the values and principles outlined in this policy.

Nothing in this Policy prevents MICA from terminating an employee, expelling a student, or taking other appropriate action in lieu of proceedings under this Policy where an individual's conduct violates other policies or standard of MICA. Nothing in this Policy alters the at-will nature of an at-will employee's employment.

Definitions

Discrimination is adverse treatment of an individual based on a protected characteristic or that person's association with a protected class.

Harassment is unwelcome verbal or physical behavior which is directed at a person based on a protected characteristic. Harassment that is prohibited by this policy occurs when these behaviors are sufficiently severe and/or pervasive to have the effect of unreasonably interfering with an individual's educational experience, working conditions or living conditions by creating an intimidating, hostile, or offensive environment.

Preponderance of the Evidence Standard of Review is the standard used by an investigator appointed under this policy to determine if the facts are as alleged and whether the facts as presented amount to discrimination and/or harassment. A preponderance of the evidence means that it is more likely than not that the facts are (or are not) as alleged.

Retaliation is any action or refusal to act that is directed at an individual for asserting their rights under this policy or any individual for participating in the review of claims filed under this policy.

Anti-Harassment Policies and Freedom of Expression

The College's policies are not intended to inhibit or restrict the free expression of ideas. As a creative, academic environment, MICA attaches great value to free expression and the exchange of diverse ideas and opinions. As a community, we expect that individuals exercising these freedoms will do so while showing respect to their colleagues and other members of the MICA community. In this way, we ensure that every member of the College community is free to engage as they want and enjoy their MICA experience with a sense of belonging.

Filing a Complaint

MICA encourages every member of the community to report all incidents of discrimination and/or harassment. The Vice President for People, Belonging & Culture is responsible for ensuring the appropriate handling of official complaints. The VPPB&C will carry out that responsibility through their supervision of the Director of Equity Compliance, the College administrator who is responsible for receiving, reviewing and managing the resolution of complaints.

Complaints must identify the parties involved, describe the harassing or discriminatory behavior, including when and where it occurred; and identify by name or description any witnesses and/or evidence. Complaints will be received and managed confidentially. Members of the College community may file their complaint here [insert link]. The College will accept and review anonymous complaints. The quality and level of review will depend on the level of details provided by the complainant and the College's ability to review the complaint based on the information provided.

Complaints of retaliation should be filed directly with the VPPB&C and/or the investigator assigned to review the original complaint.

Informal Resolution

Based upon the information presented by the parties, the VPPB&C will review the possibility of an "Informal Resolution." An Informal Resolution will only be presented if:

- The complainant requests an informal mechanism; and
- The complainant, respondent, and VPPB&C on behalf of the College, agree to an Informal Resolution in writing.

Should an Informal Resolution be agreeable to both parties, the VPPB&C will facilitate the process, and communicate with the parties. The process of Informal Resolution does not involve fact-finding nor an admission of wrong-doing. In conducting the Informal Resolution, the VPPB&C (or designee) will serve as a facilitator in reaching a path forward that is agreeable to both parties and to MICA.

Informal Resolutions of a complaint will ordinarily be concluded within 60 days of notice to the College that both parties wish to proceed with the Informal Resolution process. Such notice that the parties wish to proceed with an Informal Resolution process will "pause" the counting of the timeframe for compliant resolution under this Policy, should the Informal Resolution process fail and the parties continue with the Investigation. Either party or the VPPB&C on behalf of the College, may end the Informal Resolution process at any time and request an investigation.

Any final resolution pursuant to the Informal Resolution process will be documented and signed by all parties, including the VPPB&C on behalf of the College. However, no recording of the Informal Resolution process will be made and all statements made during the Informal Resolution process may not be used for or against either party should the complaint move forward to an investigation. Failure to comply with an Informal Resolution agreement may result in disciplinary action or additional action under this Policy.

Investigation Process

The purpose of the review or investigation is to gather facts relating to the incidents described in the written complaint. If the facts are investigated, it is the job of the investigator to determine, using the preponderance of the evidence standard, whether it is more likely than not that the alleged conduct or behavior occurred and, if so, whether it constitutes discrimination and/or harassment in violation of this policy.

The investigator will conduct a fact-finding inquiry that may include interviews and any other sources of evidence the investigator deems appropriate. The investigator may receive counsel from the Provost, MICA's legal counsel or other parties as needed. The length of time needed to complete an investigation will depend on a variety of factors, including the nature and scope of the claims, the availability of the parties and witnesses, and level of staffing available in the responsible offices. The investigator will seek to conclude the investigations within 60 business days of the date the complaint was filed.

The investigator will share the findings of the investigation with the MICA administrator responsible for supervising the respondent to determine the appropriate responsive action, including implementation of appropriate sanction. The responsible administrators are as follows: in the case of students, Vice President of Student Affairs and Dean of Students; in the case of faculty members, Vice President of Academic Affairs and Provost; in the case of staff members, the supervising Associate Vice President or Vice President. In each case, the responsible administrator may consult with the VPPB&C.

Members of the campus community are required to cooperate with any review or investigation of any complaint filed under this policy. The expectation is that those participating as complainants, respondents or witnesses will be forthright and honest as they engage in the process. An individual's failure to do so may result in disciplinary action up to and including termination or expulsion, as applicable.

Sanctions

Sanctions for violations of this Policy may include any general sanctions available under MICA's other policies and procedures such other appropriate sanction as the circumstances may dictate, including without limitation:

- *Reprimand/warning;*
- *Changing the Respondent's academic or employment schedule;*
- *Disciplinary probation;*
- *Revocation of honors or awards;*
- *Loss of privileges;*
- *Imposition of conditions of employment;*
- *Restricting access to College facilities or activities, including student activities and campus organizations;*
- *Mandatory training;*

- *Service hours;*
- *Alcohol and/or drug assessment or counseling;*
- *Issuing a “no contact” order to the Respondent or requiring that an existing order remain in place;*
- *Moving the Respondent’s residence on campus;*
- *Dismissal, termination or restriction from College employment;*
- *Making a former College employee or student (including those expelled or terminated pursuant to these sanctions) ineligible for hire or rehire by the College;*
- *Removal from student housing;*
- *Demotion or other removal from a management, supervisory or leadership role(s);*
- *A full or partial ban from campus (either limited time or indefinite);*
- *Transcript notations;*
- *Deferred suspension;*
- *Restriction from College sponsored or affiliated events;*
- *Pay reduction;*
- *Loss of raise;*
- *Loss of supervision or oversight duties;*
- *Referral for further sanctioning pursuant to applicable policies and/or procedures;*
- *Employment record notations, including an ineligibility for rehire notation;*
- *Suspension;*
- *Expulsion; and*
- *Revocation of degree.*

Complaints Filed in Bad Faith

MICA takes seriously its commitment to ensure a safe creative learning and work environment that is free of discrimination and harassment for faculty, staff and students. This policy and its procedures are designed to help us live up to that commitment. While we encourage members of the community to use it for that purpose, we expect that members of the community will do so in good faith. To do otherwise is an abuse of the process and misuse of the College’s resources.

Any member of the community found to have intentionally or maliciously used this process to levy false claims against another member of the community may be disciplined under the appropriate rules for misconduct and discipline. It should be noted that a finding that the alleged complaint is unsubstantiated is not a conclusion that the complainant intentionally or maliciously filed a false claim.